

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Miroslav Moravec, and individual

Plaintiff

v.

NBCUniversal, Inc., a Delaware Corporation,

Defendant.

CIVIL CASE NO. 3:13-CV-06011

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

Plaintiff Miroslav Moravec, through his attorney, alleges:

PARTIES

1. Miroslav Moravec is an individual residing in Clark County, Washington.

2. NBCUniversal, Inc. is a corporation organized under the laws of the State of Delaware and headquartered in New York, New York. NBCUniversal, Inc. is the successor-in-interest to NBCUniversal Media, LLC. Both entities shall be referred to herein collectively as "NBC."

JURISDICTION AND VENUE

3. This is an action for copyright infringement arising under the copyright laws of the United States, as codified in Title 17 of the United States Code.

4. Venue is proper in the Western District of Washington under 28 U.S.C. §§ 1391 and 1400(b).

5. This Court has personal jurisdiction over NBC because it conducts business within the State of Washington.

BACKGROUND

6. Plaintiff Miroslav Moravec is the holder of a copyright for certain original artwork created by his brother, Josef Moravec.

7. In particular, plaintiff is the Copyright Claimant for an original piece of 2-dimensional artwork entitled “Wooly Mammoth,” which was created in 1999 (the “Copyrighted Image”). The U.S. Copyright Office issued a Certificate of Registration for this work to plaintiff on August 5, 2003, bearing Registration Number VAu657-898.

8. In May of 2010, NBC began displaying the Copyrighted Image on at least one website owned and controlled by NBC and/or one of its wholly owned entities.

9. In July of 2013, NBC was continuing to display the Copyrighted Image on its website.

10. On July 15, 2013, NBC received a “cease and desist” letter from plaintiff, demanding that NBC immediately remove the Copyrighted Image from its website(s), destroy all copies of the image in its possession, and refrain from publishing the Copyrighted Image in the future.

11. As of a month after the first “cease and desist” letter, NBC had not complied with any of plaintiff’s demands. Thus, plaintiff sent a second “cease and desist” letter on August 12, 2013, making the same demands. Ten days later, on August 22, 2013, NBC removed the Copyrighted Image from its website(s). Thus, for more than three years, NBC used, published, and distributed the Copyrighted Image, without paying any license fee and without any authorization, in violation of plaintiff’s copyright. Moreover, NBC knowingly, intentionally, and willfully continued to use, publish, and distribute the Copyrighted Image for at least 38 days after it had received clear and unambiguous notice that NBC was infringing on plaintiff’s copyright.

1 **COUNT 1**2 **COPYRIGHT INFRINGEMENT**3 12. The Copyrighted Image constitutes original material that is copyrightable under the
4 Copyright Act, 17 U.S.C. §§ 101 *et seq.*5 13. For a period of more than three years, NBC—without consent, authorization, license,
6 or approval—unlawfully, copied, published, and distributed plaintiff's original copyrighted work,
7 and for a period of at least 38 days, NBC knowingly, intentionally, and willfully violated plaintiff's
8 copyright by continuing to use, publish, and distribute the Copyrighted Image with after notice that
9 it had no right to do so.10 14. On information and belief, NBC's direct and indirect violation of plaintiff's copyright
11 has been knowing and willful.12 15. By engaging in this conduct, NBC has violated plaintiff's exclusive rights under 17
13 U.S.C. § 106.14 16. NBC has realized unjust profits, gains, and advantages as a proximate result of its
15 infringement of plaintiff's copyrights.16 17. As a direct and proximate result of NBC's direct and indirect willful copyright
17 infringement, plaintiff has suffered, and will continue to suffer, monetary loss to his business,
18 reputation, and goodwill. Plaintiff is entitled to recover from NBC statutory damages up to \$150,000
19 as a result of NBC's acts of infringement and its use and publication of the copied materials.20 **PRAYER FOR RELIEF**

21 WHEREFORE, plaintiff prays for judgment as follows:

22
23 A. Entry of judgment holding NBC liable for infringement of the copyright at issue in
24 this litigation;
25 B. An order permanently enjoining NBC, its officers, agents, servants, employees,
26 attorneys and affiliated companies, its assigns and successors in interest, and those

persons in active concert or participation with it, from continued acts of infringement of the copyrights at issue in this litigation;

- C. An order that all copies made or used in violation of plaintiff's copyrights, and all means by which such copies may be reproduced, be impounded and destroyed or otherwise reasonably disposed of;
- D. An order awarding plaintiff statutory damages resulting from NBC's infringement of copyrights at issue in this litigation, together with post-judgment interest;
- E. An order awarding plaintiff his costs and attorney's fees under 17 U.S.C. § 505; and
- F. For any and all other legal and equitable relief as may be available under law and which the court may deem proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury for all issues so triable.

Dated: November 22, 2013

Respectfully Submitted,

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